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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,191

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Tadashi Nakamura

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EXAMINER

LEE, NICHOLAS J

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/595,191	<b>Applicant(s)</b> NAKAMURA, TADASHI	
	<b>Examiner</b> NICHOLAS LEE	<b>Art Unit</b> 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/27/2010</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 8 is objected to because of the following informalities: Claim 8 recites a method of reproduction but fails to disclose steps associated with the method.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Pub. 2004/0114474 A1 to Park et al ("Park 1") in view of US Patent Pub. 2005/0025007 A1 to Park ("Park 2").

As to claim 1, Park 1 discloses a drive apparatus for performing a pseudo-overwrite recording for a write-once recording medium (Fig. 2), wherein

the write-once recording medium includes a spare area (OSA, ISA) and a user data area (User Data Area),

at least one track are allocated in the user data area (It is well known and obvious wherein data is recorded in a user data area in tracks/sessions.),

the drive apparatus (Fig. 16) comprising:

a recording/reproduction section (11, pickup) for performing a recording operation or a reproduction operation for the write-once recording medium; and  
a drive control section (14, Servo) for controlling the recording/reproduction section,

wherein the drive control section performs a process including:

receiving a recording instruction including a location at which data is to be recorded wherein the location at which data is to be recorded is a location at which previous data is recorded (Fig. 6; ¶ 0039-0040, 0048);

controlling the recording/reproduction section to record data at a replacement location in the user data area instead of the location included in the recording instruction (¶ 0060).

Park 1 fails to disclose a drive apparatus wherein the drive control section performs a process including: determining a track among at least one tracks corresponding to the location included in the recording instruction; and when the determined track is a closed track or when the location included in the recording instruction is before the next writable address of the determined track, the process performed by the drive control section further includes:

determining whether or not the recording of the data at the replacement location in the user data area has succeeded; and when the recording of the data at the replacement location in the user data area has failed, controlling the recording/reproduction section to record the data at a location in the spare area.

In the same field of endeavor, Park 2 discloses a drive apparatus wherein the drive control section performs a process including: determining a track among at least one tracks corresponding to the location included in the recording instruction (¶ 0041, 0047-0048, 0057); and when the determined track is a closed track (see Fig. 2, Track #3, Track #4; ¶ 0039) or when the location included in the recording instruction is before the next writable address of the determined track, the process performed by the drive control section further includes:

determining whether or not the recording of the data at the replacement location in the user data area has succeeded; and when the recording of the data at the replacement location in the user data area has failed; controlling the recording/reproduction section to record the data at a location in the spare area (¶ 0047; The detection of a defect determines whether a recording has succeeded or failed.).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified Park 1 with the teachings of Park 2 with the motivation of efficiently managing information recorded in a write-once information medium and also determining which tracks of data have been finalized and which have not been finalized to avoid information recording errors.

As to claim 2, Park 2 further discloses that if a defective area is found in the data area or a spare area, a process is carried out for transferring the data from the defective area to a spare area (¶ 0047).

As to claim 3, Park 2 discloses wherein the determined track is an open track (see Fig. 2, Track #1, Track #2; ¶ 0038).

As to claim 4, Park 2 discloses wherein the determined track is a closed track having an unrecorded area (see Fig. 2, Track #3, darkened portion; ¶ 0039).

As to claim 7, Park 1 discloses a drive apparatus for performing a pseudo-overwrite recording for a write-once recording medium (Fig. 2), wherein

the write-once recording medium includes a spare area (OSA, ISA) and a user data area (User Data Area),

at least one track are allocated in the user data area (It is well known and obvious wherein data is recorded in a user data area in tracks/sessions.).

As to claim 8, the same rejections or discussions are used as in the rejections of claims 1 and 7.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-4 and 7-8 have been considered but are moot in view of the new ground(s) of rejection. See the rejections above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NICHOLAS LEE whose telephone number is (571)270-7354. The examiner can normally be reached on Monday-Friday 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NICHOLAS LEE/  
Examiner, Art Unit 2627

/Joseph H. Feild/  
Supervisory Patent Examiner, Art Unit 2627